

**Remarks/Arguments**

Reconsideration of the above identified application is respectfully requested.

In the office action of November 3, 2006, the abstract and claims 18, 28 and 30 were objected to, claims 1-9 and 16-28 were rejected over the cited references, and claims 29-30 were objected to and indicated allowable in independent form. Claims 10-16 were withdrawn as directed to a non elected species.

According to the foregoing amendment,

- (i) the abstract has been revised and the objections to claims 18, 28 and 30 have been addressed,
- (ii) Claims 1-3 and 19 have been canceled without prejudice,
- (iii) Claim 29 has been written in independent form, with some minor changes that are not believed to change the basis for that claim's allowance (e.g., the expression "water meter cover" has been replaced by "utility system cover"),
- (iv) Claim 30 remains dependent on claim 29,
- (v) New Claims 31 and 32 have been presented, and
- (vi) Claims 4-18 and 20-28 have been amended to include, inter alia, the subject matter of new claim 31.

Regarding claims 29 and 30, claim 29 has been written to incorporate the subject matter that was found allowable in original claims 29 (in that claim the expression "water meter cover" has been replaced by "fluid system cover" to seek to define a scope of protection to which this application should be entitled). Claim 30 remains dependent on claim 29. Therefore, it is respectfully submitted claims 29 and 30 are in condition for allowance.

New claims 31 and 32 are presented as a result of a telephone interview accorded the undersigned, and the applicant's representative (David Haberman) by the examiner on November 26, 2007. The courtesy of that interview is gratefully acknowledged. While the examiner made no commitments at that interview, applicant believes that interview was very helpful to applicant in structuring independent claim 31 in a manner that is believed to be patentably distinct from the cited references.

Specifically, prior to the interview, applicant had suggested some claim language to the examiner that was believed to clearly define over Jacob, the primary reference relied upon in the office action, and the other references relied upon in the office action. The examiner had called applicant's attention to the Kamiya reference, which was cited but not applied in the office action, and suggested that a way to better define the aspects of this invention that applicant was seeking to bring out in the claims was probably to recite the combination of applicant's barrier device and a utility system cover (e.g. a water meter cover). Claim 31 above is directed to such a combination, and is similar to the claim discussed with the examiner (except for the fact that at the examiner's suggestion claim 31 even more positively recites the combination of applicant's barrier device with a utility system cover).

New Claim 31 defines, *inter alia*, applicant's barrier device coupled to a utility system cover that has a tool access opening that (i) extends through the cover from a top side of the cover to an underside of the cover, and (ii) is configured to enable the cover to be engaged and manipulated by a tool that is designed to engage and manipulate the cover. Claim 31 recites that the barrier device comprises a hood and a stem extending away from the hood; the stem extending into and through the tool access opening in the fluid system cover and engaging the underside of the cover to couple the barrier device to the cover. Claim 31 also recites that the hood and at least part of the stem are configured to cover the tool access opening in the fluid system cover, in a manner that provides a barrier to materials and objects passing through the tool access opening in the cover; and the barrier device has a recess configured to receive and engage a portion of a tool in a manner that enables the tool to engage and manipulate the coupled barrier device and cover. New claim 32 is more specific to the elected species. Claim 32 recites that stem includes extender structure to enable the stem to extend through a tool access opening

of a predetermined thickness range, and the stem includes coupling structure that engages the extender structure and the underside of the cover to couple the barrier device to the cover.

As applicant explained at the telephone interview, references such as the Jacob reference are believed to at most disclose the type of utility system cover that existed prior to the present invention, but that the present invention, as reflected by claim 31, provides a barrier device that is specifically designed to be coupled with a utility system cover, and is believed to provide important features when coupled with a utility system cover (e.g. providing a barrier to entry of dirt, debris and even animals through the tool access opening of the cover, while at the same time providing structure that enables the coupled barrier device and utility system cover to be manipulated when there is a need to access the utility system under the cover). In the telephone interview, Applicant specifically noted that in Arizona, where the present invention originated, colonies of Africanized bees can be a serious hazard, both to utility meter operators, as well as to the public, and the type of barrier provided by the present invention may minimize the risk of such a colony developing below a utility meter cover (e.g. a water meter cover). Undersigned recently took the snapshot below of a water meter cover in Tucson Arizona, and in that snapshot one can clearly see the tool access opening that the barrier device of the present invention would cover, and can sense how a bee colony could develop under the water meter cover with such a tool access opening, or how dirt and debris can get into the utility system through the tool access opening in the cover.



With regard to the cited references and the specific language of claim 31, applicant respectfully submits that the Jacob patent, which was primarily relied upon in the office action does not disclose or suggest a barrier device that is coupled to a utility system cover with the tool access opening defined in claim 31, and does not have a barrier device that has a hood and stem that couple the barrier device to the utility system cover in the manner defined in claim 31, cover the tool access opening, and provide a recess that enables a portion of a tool to engage and manipulate the coupled barrier device and cover, as set forth in claim 31. The element 14 of Jacob at most corresponds to a utility system cover, but would not have the tool access opening, or a barrier device (comprising hood and stem) that covers the tool access opening, is coupled to the utility system cover in the manner defined by claim 31, and has a recess configured to receive and engage a portion of a tool in a manner that enables the tool to engage and manipulate a coupled barrier device and cover, as defined in claim 31. Thus, it is respectfully submitted that Jacob does not disclose or suggest the invention as defined in claim 31. Moreover, none of the

other references relied upon in the office action has a disclosure that would motivate someone in the art to modify Jacob to provide the present invention, as defined in claim 31.

Kamiya, which was called to applicant's attention by the examiner, also does not disclose or suggest the invention as defined in claim 31. Kamiya does not relate to a coupled barrier device and utility system cover. In addition, the cable tie of Kamiya is coupled by the element 40 to a base plate 50 such as the body panel of an automobile, but there is no disclosure or suggestion in Kamiya that the coupled cable tie and base plate are intended to be engaged and manipulated by a tool, and there is no disclosure or suggestion of a recess in anything that would correspond to applicant's barrier device that is configured to receive and engage a portion of a tool in a manner that enables the tool to engage and manipulate a coupled barrier device and cover. Therefore, Kamiya would not disclose or suggest the invention defined in claim 31.

For the foregoing reasons, it is respectfully submitted that the present invention, as defined in claim 31, is patentably distinct from the cited references.

During the telephone interview, the examiner indicated he understood the distinctions applicant was seeking to bring out in claim 31, but would probably want to search the claim further in making his judgments on the claim.

Also, applicant noted that claim 31 was believed to be generic to the 2 grouped species that were the basis for the restriction requirement, and suggested that if the examiner were to find claim 31 allowable, that having all claims other than 29 and 30 incorporate the subject matter of claim 31 would enable applicant to resolve all outstanding issue in this application. Hence, applicant has presented claim 32 above, and amended all remaining claims to incorporate the subject matter of claim 31. Thus, if claim 31 is found allowable, it is respectfully submitted all remaining claims (including those to the non elected species) can be properly allowed in this application.

Also, it is respectfully submitted that in addition to the reasons set forth above in regard to claim 31, the other claims that incorporate the subject matter of claim 31 further define the present invention in a manner that further distinguishes it from the cited references. For

example, Claim 32 is directed to the elected species and recites that stem includes extender structure to enable the stem to extend through a tool access opening of a predetermined thickness range, and the stem includes coupling structure that engages the extender structure and the underside of the cover to couple the barrier device to the cover. Such structure is not disclosed in or suggested by Jacob of any other cited references. Regarding claim 7, that claim seeks to define the flexible nature of the hood, i.e. that the hood is configured to at least partially flatten against the water meter cover near the border of the hood as the cap structure is being coupled to the water meter cover. Applicant can't find anything comparable in Jacob or anything in the other cited references that would suggest modifying Jacob to provide such a feature. Applicant is not specifically commenting on claims 10-16, because those claim were directed to the non elected species, but applicant notes that those claims, in combination with the subject matter of claim 31, are further patentably distinct from the cited references.

For the foregoing reasons, it is respectfully submitted the foregoing amendment will place this application in condition for allowance. Favorable action is respectfully requested.

In the event the examiner feels a further telephone discussion would be useful, the examiner is respectfully requested to contact the undersigned at 520-747-0999.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lawrence R. Oremland". The signature is written in a cursive, flowing style.

Lawrence R. Oremland

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Attorney for Applicant